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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 9 of the provisional agenda

# QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

## Note verbale dated 31 May 2001 from the Permanent Mission of Iraq to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human rights

The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the United Nations High Commissioner for Human Rights and has the honour to send an attached copy of the explanatory note* presented by the Government of the Republic of Iraq concerning resolution 2001/14 approved by the Commission on Human Rights during its fifty-seventh session, and requests the circulation of this note as an official document of the fifty-eighth session of the Commission.

* Reproduced as received, in Arabic and English only.

GE.01-15043 (E) 210901

Annex

**Explanatory note submitted by the Government of the Republic of Iraq concerning resolution 2001/14 entitled "Situation of human rights in Iraq" adopted by the Commission on Human Rights at its fifty-seventh session**

At its fifty-seventh session, the Commission on Human Rights adopted an inequitable resolution on the situation of human rights in Iraq. A study of the text of the resolution shows, beyond any shadow of a doubt, that it reiterates the previous resolutions that its sponsors are in the habit of submitting to the Commission. It lacks objectivity and contains many fallacies designed to distort the facts and mislead the members of the Commission. This obviously reflects the hostile positions of some of the resolution's sponsors, particularly the United States of America, the United Kingdom and the Zionist entity, towards Iraq, otherwise, how is it possible to explain the disregard that the resolution's sponsors showed for the adverse effects of the economic sanctions that have been imposed on Iraq since 1990 and of the daily illegal US-British aerial bombardments the aim of which is to kill civilians and destroy Iraq's economic infrastructure?

The ongoing economic sanctions and the aerial bombardments constitute acts of aggression designed to reduce an entire people to starvation, deny them access to medicine and prevent them from developing their economic resources. This is incompatible with the legal, moral and humanitarian principles embodied in international human rights instruments.

The Government of the Republic of Iraq is submitting this explanatory note in order to highlight the fallacies contained in that resolution and reveal the truth in the hope that it will be accorded due attention by all States.

1. Subparagraph (b) of the fourth preambular paragraph refers to 16 resolutions adopted by the Security Council. However, the resolutions referred to are unrelated to the accusations contained in the Commission on Human Rights resolution concerning the situation of human rights in Iraq since, in actual fact, they relate to the ceasefire, the elimination of weapons of mass destruction, compensation, authorization for Iraq to sell petroleum in order to purchase food and medicine, the return of prisoners of war and extension of the validity of the Memorandum of Understanding concluded between Iraq and the United Nations.

This confirms the inappropriate nature of the reference made to the above-mentioned series of resolutions and also reveals the deliberate intention of the resolution's sponsors to provide erroneous information designed to deceive and mislead others by giving the impression that Iraq had not fulfilled its human rights obligations in accordance with the terms of those resolutions which, in fact, had no bearing on human rights or on the allegations propagated against Iraq in the field of human rights (the attached annex specifies the subject matter of the Security Council resolutions referred to in the Commission on Human Rights resolution on Iraq).

2. According to the fifth preambular paragraph, the concluding observations of human rights treaty-monitoring bodies concerning Iraq indicate that the Government of Iraq remains bound by its treaty obligations.

The Government of Iraq wishes to point out that the drafters of the resolution were inaccurate in this regard, since the wide range of human rights problems were not a reason for Iraq's failure to fulfil its obligations. The reason was the comprehensive embargo imposed on Iraq, which has affected the daily lives of civilians, as stated in the observations of the following treaty-monitoring bodies:

- In paragraph 3 of its General Comment No. 8 contained in document E/C.12/1997/10, the Committee on Economic, Social and Cultural Rights indicated that "the Committee is aware that sanctions almost always have a dramatic impact on the rights recognized in the International Covenant on Economic, Social and Cultural Rights".

According to paragraph 5 of that General Comment, United Nations studies which have analysed the impact of sanctions "have concluded that these humanitarian exemptions do not have this effect and, moreover, the exemptions are very limited in scope". In addition, the study prepared by Ms. Graça Machel on the impact of armed conflict on children stated that "humanitarian exemptions tend to be ambiguous and are interpreted arbitrarily and inconsistently ... delays, confusion and the denial of requests to import essential humanitarian goods cause resource shortages ...".

- In its observations contained in document CRC/C/15/Add.94, the Committee on the Rights of the Child noted that "the embargo imposed by the Security Council has adversely affected the economy and many aspects of daily life, thereby impeding the full enjoyment by the State party's population, particularly children, of their rights to survival, health and education".

- In document CERD/C/240/Add.3 of 1999, the Committee on the Elimination of Racial Discrimination noted that the difficult socio-economic situation prevailing in the country due to the war, the economic sanctions and foreign military intervention in various regions of the country had caused tremendous human suffering and the destruction of part of the basic infrastructure had adversely affected the full implementation of human rights instruments.
- In document CEDAW/C/2000/II/Add.4, the Committee on the Elimination of Discrimination against Women noted that the comprehensive sanctions regime imposed on Iraq had adversely affected the lives of the people and had led to a considerable increase in child and maternal mortality and in the incidence of cancers, including leukaemia.

In the light of the above, we find that the Commission on Human Rights resolution totally disregarded the observations of the treaty-monitoring bodies concerning the situation of human rights in Iraq resulting from the embargo. The States which sponsored the resolution should have been honest in dealing with this aspect instead of holding the Government of Iraq solely responsible for the fulfilment of its obligations under the terms of international human rights instruments and ignoring their corresponding and reciprocal obligations under those instruments.

3 With regard to the operative paragraphs of the resolution, in operative paragraph 2 the resolution's sponsors "noted with dismay that there had been no improvement in the situation of human rights in the country".

This observation implies deliberate disregard of the true situation of human rights in Iraq and the adoption of double standards and a non-objective approach when making observations, since the real and grave violation to which the people of Iraq are being subjected consists in the ongoing comprehensive economic embargo which has been imposed on them for more than 10 years and which has deprived the Iraqi people of their basic rights, particularly their rights to life, food and health, as confirmed in many reports of United Nations agencies and treaty-monitoring bodies. In this connection, we wish to refer to the legal study on the detrimental effects of economic sanctions on the enjoyment of human rights, published by the Sub-Commission on the Promotion and Protection of Human Rights in document E/CN.4/Sub.2/2000/33, which states that: "The sanctions against Iraq are the most comprehensive, total sanctions that have ever been imposed on a country. The situation at

present is extremely grave. The transportation, power and communication infrastructures were decimated during the Gulf War and have not been rebuilt owing to the sanctions. The industrial sector is also in shambles and agricultural production has suffered greatly."

The study further states that: "The sanctions regime against Iraq is unequivocally illegal under existing international humanitarian law and human rights law. Some would go as far as making a charge of genocide." The study also notes that: "The sanctions regime against Iraq has as its clear purpose the deliberate infliction on the Iraqi people of conditions of life calculated to bring about its physical destruction in whole or in part." Finally, the study concludes that: "The strict measures stipulated in international humanitarian law for the protection of civilians in armed conflict is applicable to the sanctions regime and its instigators, and violations of those laws can be prosecuted as war crimes."

However, the most alarming aspect is the health crisis that has appeared as a result of the imposition of sanctions, the gross violations to which the Iraqi people are being subjected every day as the whole world is aware, and the daily aerial bombardments by United States and British aircraft on the pretext of protecting the illegal so-called "no-fly zones" to which hundreds of civilian women and children have fallen victim.

4. Operative paragraph 4 (k) calls upon Iraq to cooperate further with international aid agencies and non-governmental organizations to provide humanitarian assistance and monitoring in the northern and southern areas of the country.

In this connection, we wish to refer to the letter dated 30 April 2001 from the Minister for Foreign Affairs of the Republic of Iraq, addressed to the Secretary-General of the United Nations, which indicates that, in the year 2000 alone, the Government of Iraq issued 991 entry visas to United Nations personnel working within the framework of the Memorandum of Understanding. While realizing that the number of applications for entry visas was excessive, being greater than the volume of work accomplished and in excess of actual needs, particularly in the northern governorates, the Iraqi authorities did not wish to delay the issue of any visa and merely notified the Office of the Humanitarian Coordinator in Iraq and the Office of the Iraq Programme that this excessive use of experts and technical specialists, including even carpenters and international telephone exchange operators, was an improper practice which depleted the resources of the Memorandum of Understanding without justification, particularly as Iraq had experts and specialists, whose expertise could be used, instead of foreign experts and specialists, in the programme activities.

The programme implementation record in the three northern governorates of Iraq shows that the dispatch of armies of international experts, specialists and technicians has not led to any significant improvement in programme performance.

During the last three months, the number of foreign experts dispatched to Iraq has increased notably and many cases have been documented in which international personnel have been dispatched, not with a view to enhancing the programme activities, but solely in order to reward them or solve financial problems from which they were suffering or because they were relatives or friends of officials responsible for the implementation of the programme. In this connection, it is noteworthy that the implementation of the Memorandum of Understanding has led to the presence of hundreds of United Nations personnel in Iraq and the Government of Iraq has recorded numerous serious violations of the national and economic security and laws of Iraq by the Office of the Iraq Programme and the personnel of United Nations agencies, as illustrated by the following:

- The Office of the Iraq Programme and some United Nations agencies operating in Iraq have distributed political statements and manifestos by fifth-columnist groups in northern Iraq.
- Some United Nations agencies operating in the three northern governorates have collaborated with non-governmental organizations which entered Iraq illegally with a view to undermining its security and territorial integrity under the cover of humanitarian activities.
- Some United Nations personnel have smuggled valuable antiquities and property outside Iraq.
- Some United Nations personnel have failed to respect the values, customs and traditions of Iraqi society.

In March 2001, these violations prompted Mr. Ton Myat, the United Nations Humanitarian Coordinator in Iraq, to draw the attention of the United Nations agencies operating in Iraq to the need to show due regard and respect for Iraq's sovereignty and territorial integrity. He also called upon the heads of the international agencies operating in Iraq's three northern governorates to ensure that their staff complied with the conditions laid down in the

Memorandum of Understanding in order to guarantee the successful discharge of their functions in Iraq. He warned them against any infringement by the staff of their agencies which would constitute a violation of the conditions of the Memorandum of Understanding.

5. Operative paragraph 4 (l) calls upon the Government of Iraq to cooperate, together with all concerned, in the equitable distribution of humanitarian supplies and to facilitate the work of United Nations humanitarian personnel by ensuring the free and unobstructed movement of observers.

This allegation is unfounded. All the reports of the Secretary-General of the United Nations, the most recent of which is the report S/2001/186 of 2 March 2001 (para. III.C), indicate that Iraq is cooperating in the implementation of the programme. The international observers have carried out about 750,000 operations and have not reported any shortcoming on the Iraqi side nor any diversion of materials from the beneficiaries or end-users.

The Government of the Republic of Iraq wishes to highlight the reasons why the Memorandum of Understanding concluded between Iraq and the United Nations in accordance with resolution 986 (1995) was voided of its humanitarian content.

The Memorandum of Understanding has so far passed through nine phases and has been in operation for more than four years. The Government of Iraq has diligently endeavoured to abide by the provisions of the Memorandum as a temporary and exceptional measure designed to alleviate the sufferings of the Iraqi people due to the embargo. The Government of Iraq has also cooperated fully with the United Nation agencies in discussing and determining the needs of the sectors covered by the distribution plan in the hope that the urgent needs of the Iraqi people would be met within the time-frame of each phase.

By 14 February 2001, the income arising from the Memorandum of Understanding amounted to more than US$ 39 billion, of which 13.7 billion were deducted for purposes far removed from the humanitarian aims for which the programme was set up. These deductions were: $11.7 billion for compensation and $1.1 billion to cover United Nations expenses. At all events, Iraq received goods and equipment amounting to a value of only $9.9 billion. The remaining $11.4 billion, deposited with the French bank maintaining Iraq's account, represented the value of the contracts which had either been placed on hold by the United States of America and the United Kingdom or were held pending by the Office of Iraq Programme or awaiting the issue of letters of credit.

From the outset, the United States of America and the United Kingdom have deliberately sought to void the Memorandum of Understanding of its humanitarian objectives in an assiduous endeavour to harm the Iraqi people and aggravate their sufferings. This policy consisted in placing contracts for humanitarian supplies on hold or blocking them for political motives, even though those contracts met the conditions laid down by the United Nations Secretariat in document S/1998/92, paragraph 4 (b) of which stated that the United Nations Secretariat would screen and review applications and circulate all applications that met the requirements of the Committee's procedures and were consistent with the distribution plan. In spite of the fact that all the other members of the 661 Committee had approved those contracts, the United States and British representatives put forward invalid reasons for placing them on hold. For example, they have placed some contracts on hold on the pretext that they involved materials that were subject to the provisions of resolution 1051, even though the Office of the Iraq Programme affirmed the contrary, and they have placed other contracts on hold on various pretexts while approving contracts involving similar materials of different origin, thereby clearly showing that they had problems with, or political aims to be achieved through, the States submitting the contracts. Even a contract for the purchase of live bulls (contract No. 600787) was put on hold on the pretext of its dual-purpose nature. An even more detrimental aspect lies in the fact that the contracts placed on hold complement other contracts previously approved for the same project, thereby preventing Iraq from using the goods and equipment covered by the contracts that have been approved.

Although their inhuman conduct has led to international protests, including the resignations of Mr. Denis Halliday, Mr. Hans von Sponeck and Mrs. Jutta Burghardt (the representative of the World Food Programme in Iraq), the United States of America and the United Kingdom are constantly intensifying their policy of placing contracts on hold. By 11 May 2001, a total of 1,690 contracts relating to phases IV-IX of the Memorandum of Understanding and amounting to a total value of $3.7 billion were on hold, the United States of America and the United Kingdom having paid no heed to the Security Council's appeal, in paragraph 9 of resolution 1330 (2000), for the 661 Committee to reduce the number of contracts placed on hold.

6. In operative paragraph 4 (m), the resolution's sponsors emphasize the need for the Government of Iraq "to cooperate in the identification of the minefields existing throughout Iraq".

In this connection, the Government of the Republic of Iraq wishes to shed light on some facts. A study of the mine clearance operations in the northern governorates has revealed the total failure and wasteful extravagance of the United Nations activities in this regard. In reality, more than $80 million have so far been appropriated to this programme, while only 3,450 mines have actually been cleared. This means that the clearance of each mine costs more than $22,000 (more than 20 times higher than the normal average cost). This high cost is attributable to numerous factors, including the salaries, travel expenses and costly vehicles of the large army of so-called "experts" working on this programme, not to mention their communication equipment (six wireless communication devices per person). During the period from November to December 2000 alone, the Ministry of Foreign Affairs received applications for the issue of entry visas to 63 international experts assigned to work on this project. Moreover, the 28 dogs which were brought to Iraq to help to locate minefields entailed additional expenditure, such as the costs of providing a trainer, a handler for each dog and a special vehicle for each two dogs. Until recently, tons of food were imported from abroad for these dogs. These facts prompted the Secretary-General of the United Nations to note, in one of his reports, that the mine clearance operation in northern Iraq might last for 75 years.

These facts unquestionably illustrate the extent to which the Government of Iraq is cooperating in spite of the illogical procedures and requests of the United Nations and the unreasonable costs, which are depleting the funds available to Iraq under the Memorandum of Understanding. However, the resolution's sponsors deliberately disregarded all this in an endeavour to hide the truth and mislead the other States members of the Committee.

7. Operative paragraph 4 (j) refers to the question of Kuwaiti missing persons, allegedly including prisoners of war. In this connection, we wish to state that the use of the term "prisoners of war" is incorrect, since the legal term used to designate the persons on whom Kuwait submitted files is "missing persons", as indicated by the fact that the International Committee of the Red Cross uses this term when referring to the Kuwaitis and Iraqis reported

missing during the events of 1991, bearing in mind the fact that Iraq's fulfilment of its obligations in regard to the question of prisoners was certified by the ICRC in the informal paper which it circulated at the United Nations in 1998 and which stated that Iraq had released 4,000 prisoners of war and 1,300 civilian detainees of Kuwaiti and other nationalities after the 1991 ceasefire.

However, the Commission on Human Rights seems to have been so eager to use terminology conducive to the politicization of this humanitarian issue that some of the references made in this paragraph to the need to release prisoners of war, to inform their families about their whereabouts, to provide information about death sentences allegedly imposed on some of them and to issue death certificates went far beyond anything that Kuwait or its allies would have ventured to raise in any international forum. It would have been more appropriate for the Commission on Human Rights to, at least, respect the Security Council resolutions and the ICRC reports when dealing with this humanitarian issue in order to conceal its politicization, total bias or ignorance in this regard.

In this connection, we should make it clear that Iraq has cooperated diligently with a view to solving the issue of the Kuwaiti missing persons. However, Iraq's subjection to aggression by the United States of America and the United Kingdom in December 1998 prompted it to demand the exclusion of those two States from the work of the Tripartite Commission and its Subcommittee since, in actual fact, they had no missing persons and were consistently endeavouring to politicize the work of those two bodies. The best evidence of Iraq's cooperation was the settlement of the question of the Saudi pilot, whose remains were found during a combined operation by Iraq, Saudi Arabia and the ICRC, and the manner in which Iraq cooperated in the renewed efforts made by the ICRC at the beginning of the present year to trace the missing Iraqis and Kuwaitis on a bilateral basis through the ICRC delegations at Baghdad and Kuwait.

When dealing with this humanitarian issue, the Commission on Human Rights applied double standards by making a malicious political reference to the question of the Kuwaiti missing persons while deliberately omitting to refer to the question of the 1,142 Iraqi missing

persons (double the number of the missing Kuwaitis) who are officially registered with the ICRC and the Tripartite Commission. It should also be noted that Mr. Mavrommatis, the Special Rapporteur of the Commission on Human Rights, dealt with the question of the Iraqi missing persons in a fairly detailed manner in his report and made representations to the Government of Kuwait in this regard.

In the same paragraph, Iraq is called upon to pay compensation to the families of persons who died or disappeared during the operations. In this connection, we wish to point out that, notwithstanding Iraq's strong reservations concerning the manner in which the United Nations Compensation Commission was established and the general working procedures that it is applying, and notwithstanding Iraq's reservation concerning the question of payment of compensation to the families of missing persons, particularly since the principles of international law make no provision for such compensation, the Compensation Commission arbitrarily decided to pay an amount of $177,109,000 (far more than the amount of $111,483,429 claimed by the Kuwaiti authorities) to the so-called Kuwaiti National Committee for Missing and Prisoner of War's Affairs (see document S/AC.26/1999/24). The disregard that the drafters of that paragraph showed for the true facts concerning this issue means one of two things: either they were unaware of the true state of affairs or their deliberate reference to this issue was motivated by malicious political objectives.

From the above and the documented facts set forth in this note, it is evident, beyond any shadow of a doubt, that the resolution on the situation of human rights in Iraq is unbalanced and highly selective, applies double standards and is based on imprecise and exaggerated allegations designed to distort the facts. The resolution's sponsors misused the rostrum of the Commission on Human Rights by politicizing its noble causes with a view to defaming and harming States in furtherance of narrow-minded political objectives which will definitely not promote the lofty principles of human rights. It is ironical that Israel co-sponsored the draft resolution given its indescribable record of violating the human rights of the Palestinian people against whom it has committed crimes that exceed those perpetrated by the Nazis.

**Annex showing the subject matter of the Security Council resolutions referred to in the Commission on Human Rights resolution on the situation in Iraq**

| | Resolution No. | Date | Subject matter |
|---|---|---|---|
| 1 | 686 | 2 March 1991 | Notes the suspension of offensive combat operations; demands that Iraq implement the 12 relevant Security Council resolutions and release Kuwaiti prisoners of war; and welcomes the decision taken by the Coalition States to release Iraqi prisoners of war. |
| 2 | 687 | 3 April 1991 | Specifies the ceasefire conditions; establishes a Special Commission to eliminate weapons of mass destruction; and also establishes a Compensation Fund. |
| 3 | 986 | 14 April 1995 | Authorizes Iraq to sell $2 billion worth of petroleum every 180 days in order to purchase food and medicine. |
| 4 | 1111 | 4 June 1997 | Extends the "oil-for-food" programme (phase II). |
| 5 | 1129 | 12 September 1997 | Splits the 180-day petroleum exportation period into two periods of 120 and 60 days so that Iraq can export the quantities of petroleum needed for phase II in accordance with resolution 1111 (1997). |
| 6 | 1143 | 4 November 1997 | Extends the "oil-for-food" programme (phase III). |
| 7 | 1153 | 20 February 1998 | Authorizes the exportation of the quantities of petroleum needed to secure an amount of up to $5.652 billion during a period of 180 days (phase IV). |
| 8 | 1175 | 19 June 1998 | Authorizes States to export to Iraq the necessary parts and equipment, up to a total of $300 million, to enable Iraq to increase the export of petroleum and petroleum products; decides that the funds deposited can be used to meet any reasonable expenses arising from approved contracts; and notes that the distribution plan agreed between Iraq and the United Nations will remain in effect. |
| 9 | 1210 | 24 November 1998 | Decides that the provisions of resolution 986 (1995) will remain in force for a further period of 180 days (phase IV); authorizes, on the basis of specific requests, reasonable expenses related to the Hajj pilgrimage, to be met from funds in the escrow account; and requests the Secretary-General to report on whether Iraq had ensured the equitable distribution of medicine and health supplies. |

| | Resolution No. | Date | Subject matter |
|---|---|---|---|
| 10 | 1242 | 21 May 1999 | Extends the "oil-for-food" programme for a further period of six months (phase VI). |
| 11 | 1266 | 4 October 1999 | Authorizes a rollover sufficient to generate an additional sum of $3.04 million. |
| 12 | 1281 | 10 November 1999 | Extends the "oil-for-food" programme for a further period of 180 days beginning on 12 December 1999. |
| 13 | 1284 | 17 December 1999 | Decides to establish a new body, known as the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), to replace UNSCOM, and makes provision for the establishment of a new financial control mechanism to monitor petroleum exports. |
| 14 | 1302 | 8 June 2000 | Extends the "oil-for-food" programme (phase VIII). |
| 15 | 1330 | 5 January 2000 | Extends the "oil-for-food" programme (phase IX). |

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# CIVIL AND POLITICAL RIGHTS

## Note verbale dated 11 June 2001 from the Permanent Mission of Peru to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of Peru to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to the recent establishment in Peru of the Commission on the Truth.

In this connection, the Permanent Mission of Peru would be grateful if the Office of the High Commissioner for Human Rights would have the text of the law establishing the Commission (Supreme Decree No. 65-2001-PCM), attached to this note*, distributed as an official document of the fifty-eighth session, representing a decisive step towards the full implementation of human rights in Peruvian society.

* Reproduced as received in the original Spanish, and in English.

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**Annex**

**SUPREME DECREE NO. 065-2001-PCM**

**THE PRESIDENT OF THE REPUBLIC**

**WHEREAS**:

The establishment of a Commission on the Truth has been proposed by the inter-agency working group established pursuant to Supreme Decision No. 314-2000-jus;

**CONSIDERING**:

That, pursuant to article 1 of the Constitution, the protection of the human person and respect for his dignity are the supreme goal of society and the State;

That it is the duty of society and the State to guarantee the full implementation of human rights, as an expression of the supremacy of the human person, the goal and purpose of every democratic system;

That it is the duty of the State to promote and guarantee peaceful coexistence among all members of society;

That in May 1980 terrorist organizations unleashed violence against humanity and that the basic human rights of thousands of Peruvians were violated by those terrorist organizations as well as some State agents, resulting in a tragic series of crimes, disappearances and other serious events which were never brought to light;

That the violence experienced by the country as part of a painful process spanning the last two decades must be fully brought to light, must not be allowed to be forgotten and that the State must guarantee society's right to the truth;

That a democratic State and society must confront the past with determination and without vengeance by bringing all the bitter facts to light while respecting democratic freedoms and principles;

That a Commission on the Truth is an appropriate means both of bringing to light the events involving terrorist violence and serious human rights violations which took place during that period and of ensuring that such events do not recur, by creating the necessary conditions for national reconciliation based on justice;

In conformity with the provisions of article 118, paragraph 24 of the Political Constitution of the State:

With the approval of the Council of Ministers;

**DECREES THE FOLLOWING:**

**Article 1**. There is hereby established a Commission on the Truth, whose task shall be to bring to light the process, events and responsibilities involved in the terrorist violence and violations of human rights which took place from May 1980 to November 2000, committed both by terrorist organizations and by State agents, and to propose initiatives to strengthen peace and harmony among Peruvians.

The Commission on the Truth shall aim at achieving national reconciliation, justice and the strengthening of the constitutional democratic regime.

**Article 2**. The following shall be the Commission's objectives:

(a) To analyse the political, social, and cultural conditions and behaviour, both within society and by State agencies, which contributed to the tragic violence experienced by Peru.

(b) To help the respective courts, when necessary, to bring to light the crimes and human rights violations committed by terrorist organizations and a few State agents, by attempting to determine the victims' whereabouts and situation and identifying, as far as possible, the alleged perpetrators.

(c) To prepare proposals for compensation and rehabilitation of the victims and their relatives.

(d) To recommend institutional, legal, educational and other reforms, as preventive guarantees, to be addressed through legislative, political or administrative initiatives.

(e) To establish mechanisms for follow-up of its recommendations.

**Article 3**. The Commission on the Truth shall focus its work on the following events, provided they are attributable to terrorist organizations, State agents or paramilitary groups:

(a) Killings and abductions.

(b) Enforced disappearances.

(c) Torture and other serious injury.

(d) Violations of the collective rights of the Andean and native communities of Peru.

(e) Other crimes and serious violations of individual rights.

The Commission shall not have judicial authority and therefore shall not act in lieu of the Judicial Branch or the Public Prosecutor's Office.

**Article 4**. The Commission on the Truth shall be composed of seven individuals of Peruvian nationality, eminent members of society with high moral standards and known to be defenders of democracy and the constitutional order.

The President of the Republic, with the approval of the Council of Ministers, shall appoint the members of the Commission by supreme decision.

**Article 5**. Given the exceptional nature of their functions, the members of the Commission on the Truth shall be assigned appropriate security measures at the initiative of the Executive Branch.

The Executive Branch, the members of the armed forces and national police or any other institution, official or agent within the Executive Branch, shall provide the Commission with support and cooperation in the performance of its duties.

The Executive Branch shall cooperate with the other branches of Government in providing support to the Commission on the Truth.

Without prejudice to the foregoing, the Commission on the Truth may, through the Executive Branch, propose and sign special cooperation agreements with the Legislative Branch, the Judicial Branch, the Public Prosecutor's Office and all other institutions granted autonomy under the Constitution.

**Article 6**. The Commission on the Truth shall enjoy the following powers for the purpose of fulfilling its task:

(a) Interview and collect any information it deems appropriate from individuals, authorities, officials or civil servants.

(b) Seek the cooperation of officials and civil servants for access to Government documentation or other information.

(c) Conduct inspections or any other steps it deems necessary. To that end, it shall receive expert assistance in carrying out its work.

(d) Conduct public hearings and any private proceedings it deems appropriate and withhold the identity of anyone who provides it with important information or participates in the investigations.

(e) Arrange security measures for persons whose lives or physical integrity the Commission deems to be under threat.

(f) The Commission on the Truth shall establish communication channels and mechanisms for participation by the people, especially those persons who were affected by the violence.

(g) Adopt its internal statutes in fulfilment of its objectives and responsibilities.

**Article 7**. The Commission on the Truth shall begin operating as soon as it is established and continue for a period of 18 months. This period may be extended for a further five months. The Commission shall submit its final report to the President of the Republic and the heads of the other branches of Government. The report shall be published and disseminated throughout society. All testimony and documentation received by the Commission shall be confidential. At the end of its term documentation collected by the Commission shall be submitted, together with an inventory thereof, to the Office of the Ombudsman, with its contents kept strictly confidential. The Executive Branch shall give consideration to the Commission's recommendations, provided they are in conformity with the law.

**Article 8**. This supreme decree shall be authenticated by the President of the Council of Ministers, the Minister of Defence, the Minister of the Interior and the Minister of Justice.

**Final provisions**

**First**. The Commission on the Truth shall establish an Executive Secretariat to support it in the fulfilment of its duties. It may engage the services of professionals in the different technical disciplines necessary for the proper fulfilment of its mandate, including lawyers, sociologists, psychologists, medical experts and experts in forensic anthropology. The organization and duties of the Executive Secretariat shall be set forth in its statutes.

**Second**. The Commission on the Truth shall be funded through the following:

(a) Resources transferred for that purpose by the Ministry of the Economy and Finance;

(b) Resources assigned to it in the General Budget of the Republic for the forthcoming fiscal years;

(c) Resources it obtains directly from international cooperation;

(d) Resources it receives through donations.

**Third**. The members of the Commission on the Truth shall be appointed within 30 days of the entry into force of this supreme decree. Once it has been established, the Commission will have 90 days to organize its work and prepare the relevant statutes.

**DONE** at Government House, Lima, on 2 June 2001.

Valentin Paniagua Corazao
President of the Republic

Javier Pérez de Cuéllar
President, Council of Ministers

Antonio Ketin Vidal Herrera
Minister of the Interior

Walter Ledesma Rebaza
Minister of Defence

Diego García Sayán Larrabure
Minister of Justice

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# QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

## Note verbale dated 12 June 2001 from the Permanent Mission of Israel to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

The Permanent Mission of Israel to the United Nations Office and other International Organizations in Geneva presents its compliments to the secretariat of the fifty-seventh session of the Commission on Human Rights and has the honour to communicate the following information regarding the incident of 12 November when a tracer bullet was fired at a vehicle escorting the United Nations High Commissioner, Mary Robinson, during her visit to the region last year.

Since then, on several occasions, including at the fifty-seventh session of the Commission on Human Rights, harsh accusations have been made against Israel alleging that it was Jewish settlers who had opened fire on the High Commissioner's convoy, and even alleging that Israel had tried to kill Mary Robinson.

Until now, it has not been clearly demonstrated what actually occurred at that time. However, the Israeli authorities have recently received the official results of the ballistics expertise carried out by the Danish police. The results indicate that the shot fired at the vehicle of the High Commissioner was from a Kalashnikov AK-47 rifle (a weapon that is not standard issue in the Israeli army) and originated from a house in the H1 area, north of Bab Al-Zawiya (an area under the jurisdiction of the Palestinian Authority). The 15th Periodic Report of the Temporary International Presence in the City of Hebron (TIPH), an international observer mission, includes this information.

Please find enclosed herewith the relevant page of the TIPH Report addressing the results of the ballistics expertise, as well as a letter form the Head of Mission of TIPH addressed to the Minister of Local Government of the Palestinian Authority and the Director General of the Israeli Foreign Ministry, scheduling a Monitoring and Steering Committee meeting at which the report will be discussed.

The Permanent Mission of Israel requests that this note and its attached documents* be circulated to all members of the Commission on Human Rights.

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* Reproduced as received, in the language of submission only.

Annex

Excerpts from the 15th periodic report of the Temporary International Presence in the City of Hebron (TIPH):

... deliberate way, turned the long headlights on when a TIPH member got off the patrol vehicle. Blinded by the lights, the patrol members eventually had to drive in reverse in order to leave the spot.

o *2.2.3. Shooting against TIPH*

On 16 February, shooting erupted close to the TIPH Headquarters. Even though the TIPH Headquarters were never a target, tracer shots were observed passing close by, indicating that the premises were in the line of fire. Bullets injured two Palestinians in their home, next to TIPH Base 2. The incident appeared to have been caused by an IDF operation against a Palestinian farm across the border of the TIPH AOR. The night before this incident, a tracer bullet was observed passing 10-15 meters in front of a TIPH patrol vehicle that was virtually alone on the road. No exchange of fire was reported in the area.

Regarding an incident on 12 November 2000, when a tracer bullet was fired at a TIPH vehicle escorting the UN High Commissioner for Human Rights Mrs. Robinson on a visit to Tel Rumeida, TIPH received the results of a ballistic expertise carried out by the Danish Police. The expertise showed that the shot was fired from a Kalashnikov AK-47 rifle. Moreover, a reconstruction conducted by TIPH personnel in co-operation with the Danish experts clearly designated the origin of the shot: a house in the H1 area, north of Bab Al-Zawiya

**2.3. Working relations with the Israeli side**

TIPH and the IDF have in the current period had a good co-operation. IDF and TIPH Liaison Officers had contacts on a daily basis, and made efforts to solve incidents directly. In most cases, an effective co-operation was established. However, in one case when a TIPH patrol was denied access to the area of Tel Rumeida, contacts between the TIPH and IDF Liaisons enabled the patrol to enter the area after more than two and a half hours. Moreover twice in the period under review, TIPH patrols experienced difficulties with soldiers refusing to remove barriers for TIPH vehicles.

The co-ordination in cases concerning the safety of TIPH observers was good. Unfortunately there has been only one JHC meeting in this period, but there have been several bilateral meetings between TIPH and the IDF.

TIPH presented a total of 470 cases to the IDF. The reports were presented to the IDF under the following categories: 275 cases were presented for clarification and 195 for information. It must be stressed that not all of the reports presented for information were related to IDF activities, but nevertheless sent to the IDF since the incidents reported took ...

TIPH Temporary International Presence in the City of Hebron
Street address: Al Zaghel Building, Ras Al-Jours, Hebron
Mailing address: PO Box 1585, 91014 Jerusalem
Telephone: (+ 972) 02 222 4445, Telefax: (+ 972) 02 222 4333 (24 hrs.)/4449 (Exec.off.)
Website: http://www.tiph.org E-mail: @tiph.org

Our ref. Date 4 June 2001

Dr. Saeb Erakat, Minister of Local Government, Palestinian Authorities

Mr. Avi Gil, Director General of the Israeli Foreign Ministry

**MEETING IN THE TIPH MONITORING AND STEERING COMMITTEE**

Sirs,

I would like to take the initiative to schedule the next Monitoring and Steering Committee meeting.

The Periodical Report no 15 for the period 1 February – 30 April is delivered by hand to your office today.

I suggest the report to be discussed in the MSC meeting.

At the same time it is possible to discuss former Periodical Reports covering the period from the last meeting in the MSC (reports no XI, XII, XIII and XIV).

I would also like to discuss the situation for the children in Hebron, and the security for the TIPH observers.

I suggest the following dates: Sunday 10 June, Monday 11 June or Tuesday 12 June.

I further propose the meeting to be held at the Inbar Hotel (former Laromme Hotel) in Jerusalem. If you prefer a different venue please let me know.

Yours truly,

Karl-Henrik Sjursen
Head of Mission

*TIPH is an international observer mission. The mandate of TIPH is to assist in monitoring and reporting the efforts to maintain normal life in the City of Hebron thus creating a feeling of security among the Palestinians in the City of Hebron.*

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Fifty-eighth session
Item 11 (a) of the provisional agenda

## CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF TORTURE AND DETENTION

### Note verbale dated 27 June 2001 from the Permanent Mission of Bahrain to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the State of Bahrain to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to request it to circulate as an official document of the forthcoming fifty-eighth session of the Commission on Human Rights the speech of His Highness Shaikh Hamad Bin Essa Al-Khalifa, Amir of the State of Bahrain, on the occasion of the International Day in Support of Victims of Torture.*

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* Reproduced as received in the language of submission only.

GE.01-15029 (E) 230901

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Annex

***Speech by***
***His Highness Shaikh Hamad Bin Essa Al-Khalifa***
***Amir of the State of Bahrain***
***on the occasion of the***
***United Nations International Day***
***in Support of Victims of Torture***

**26 June 2001**

Unofficial Translation

**In the name of God the most gracious, the most merciful**

On this day, the international community should remember and sympathise with every human being who has suffered violations or harm, anywhere in the world, whether as a result of demanding his rights, carrying out his duty, or defending his homeland, territory, values or principles.

It is a source of great pride in the State of Bahrain, established on justice, peace and tolerance, that the country has defended the principles of right and freedom. Today, it is embarking, through the concurrence of its leadership and people, upon a path aimed at ensuring the political and legal atmosphere necessary for the protection of human rights in various fields, within the principles of the Constitution and the National Action Charter. This Charter, overwhelmingly agreed upon by the people of Bahrain, clearly ensures the maintenance of rights and freedoms of all, in accordance with the noble Islamic message, constitutional guarantees, and recognised humanitarian values, and is based on the principle of the comprehensive pardon which we have adopted as a guarantee from us to the all sectors of Bahraini society.

It is with pleasure and happiness that we participate, along with the Bahraini Society for Human Rights and the Human Rights Committee at the Shura Council in celebrating the United Nations International Day for the Support of the Victims of Torture. In particular, it is a pleasure to discuss the important status accorded to human rights issues in our country, Bahrain, whose deep-rooted civilisation has, throughout its long history, embraced various thoughts and ideologies in a unique model, indeed its Kingdom was known for spiritual and intellectual tolerance and cultural heritage. Today, this is reflected by the

political and social transformations currently taking place in Bahrain in a healthy atmosphere of open and constructive dialogue covering all issues of concern to this country, which is so dear to all its people, foremost of which is the issue related to the human being himself, who is the wealth of the country and the pillar of its development and growth.

The celebration of the United Nations International Day in Support of Victims of Torture is considered a humane occasion worthy of the highest praise and appreciation. The State of Bahrain, as it participates in this international celebration, is fully aware of an unarguable fact, namely that ensuring the welfare of the human being and the enjoyment of his rights is the highest aim and ultimate goal of all the country's plans for development and progress in all the various fields.

Bahrain has confirmed the international nature of human rights and accorded them full respect, both nationally and internationally, since its independence, from which time all its laws have adopted the principles embodied in the Universal Declaration of Human Rights.

Domestically, the National Action Charter is further proof of our determination to ensure respect for human rights and to give all citizens a stake in the future of our country. It contains provisions designed to reinforce basic rights and freedoms, and to establish the administrative and legal structures necessary to give full effect to the principles underlying all human rights.

We are confident that private Bahraini organisations and societies will play a vital role in this process, and will help ensure that with the cooperation and assistance of all concerned we can realise the overriding aim of the Charter, namely, a better future for Bahrain and all its people.

Internationally, Bahrain has become party to a number of important human rights treaties and conventions, most significant of which are the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention Against Torture, the Convention on the Rights of the Child, and other instruments related to human rights. Bahrain has also stepped up its close and cooperative working relationship with the United Nations and other international human rights bodies to ensure the promotion and protection of human rights around the world.

Torture is a heinous crime outlawed by Bahraini law. It is denounced by the teachings of our religion, Islam, and renounced by our traditions and cultural heritage.

Today, as we celebrate this international occasion in this region of the world, we cannot but express our deep compassion with the suffering of the brotherly Palestinian people – whether man, woman, or child – striving to regain their inalienable rights in their homeland in accordance with the resolutions of international legitimacy. It is high time for all States and governments to respect these resolutions without double standards, in order to maintain this same international legitimacy in all regions of our modern world, guaranteeing equality and justice among all of its peoples, without discrimination. What is happening in the occupied Palestinian territories is a clear violation by Israel of the Convention Against Torture, the Convention on the Rights of the Child, and other legal instruments relevant to human rights, as well as the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

In conclusion, it is necessary to stress the unity and indivisibility of human rights. Civil and political rights are complemented by economic, social and cultural rights. From this cultural standpoint, the State of Bahrain joins all parts of the world to strengthen a noble human goal, whose essence and ultimate aim is the human being, through the promotion and protection of human rights in their entirety.

May God help us succeed.

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Fifty-eighth session
Item 11 (e) of the provisional agenda

# CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF RELIGIOUS INTOLERANCE

## Letter dated 29 June 2001 from the Permanent Representative of Turkey to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights

I have the honour to transmit herewith the observations of my Government on the report of Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, concerning his visit to Turkey from 30 November to 9 December 2000 (A/55/280/Add.1).

I would appreciate it if you would have the enclosed observations* circulated as an official document of the fifty-eighth session of the Commission on Human Rights.

(Signed) Murat SUNGAR
Ambassador
Permanent Representative

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* Reproduced as received, in the language of submission only.

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Annex

***OBSERVATIONS OF THE GOVERNMENT OF TURKEY ON THE REPORT OF MR. ABDELFATTAH AMOR, SPECIAL RAPPORTEUR OF THE UN COMMISSION ON HUMAN RIGHTS ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF, CONCERNING HIS VISIT TO TURKEY FROM 30 NOVEMBER TO 9 DECEMBER 1999***

## *I. GENERAL COMMENTS*

1. Upon the invitation of the Government of Turkey, Mr. Abdelfattah Amor, Special Rapporteur of the UN Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief, visited Turkey from 30 November to 9 December 1999.

2. The visit to Turkey by Special Rapporteur Amor falls within the scope of a series of visits to our country by persons mandated to carry out thematic procedures of the Commission on Human Rights.

3. These visits clearly demonstrate the willingness of the Government of Turkey to fully cooperate with the mechanisms of the Commission on Human Rights. Like other Special Rapporteurs who have visited Turkey, Mr. Amor was received at high level, the majority of his requests for meetings with official representatives were met and he enjoyed the full cooperation of our authorities during his visit.

4. The report of the Special Rapporteur concerning his visit to Turkey, which was issued as General Assembly document A/55/280/Add. 1, has been carefully examined by the Turkish authorities. The present document aims to outline the views and observations of the Turkish authorities on the said report.

5. The Government of Turkey would very much like to believe that the Special Rapporteur has sought to report on the situation in Turkey in an impartial manner, in conformity with his mandate. However, the Government of Turkey regrets to express its firm opinion that the report creates serious doubts about the Special Rapporteur's impartiality as well as his grasp of the situation in our country.

6. The Special Rapporteur has failed to reflect an accurate picture of the situation regarding freedom of religion in Turkey. His report contains gross misrepresentations of facts. Furthermore, certain practical problems of an essentially individual nature are selectively singled out and magnified to create a distorted image of Turkey.

7. The report gives the impression of having been drafted with a distinctly political undertone, rather than an objective, legal one. The Special Rapporteur not only unfairly levels serious charges against certain administrative practices of the Turkish authorities, but goes so far as to criticize the founding philosophy underlying the system of government and the lifestyle adopted by the citizens of the modern Republic of Turkey.

8. Therefore, and for reasons which shall be outlined in detail below, the Turkish Government is of the opinion that the Special Rapporteur has overstepped his mandate by leveling groundless charges against Turkey unsubstantiated by factual evidence.

## *II. HISTORICAL BACKGROUND OF RELIGIOUS TOLERANCE IN TURKEY*

9. The Republic of Turkey is situated on lands on which countless cultures and religions have co-existed throughout history.

10. Before the foundation of the modern Republic of Turkey in 1923, the Ottoman Empire adopted a policy of respect and tolerance with regard to the various ethnic, cultural and religious communities living under its administration. Owing to this exceptional system, members of various religions and denominations within the boundaries of the Empire were able to preserve their distinct cultures and languages throughout centuries while living according to their religious creeds.

11. In this sense, the Ottoman Empire was a "melting pot" and a "multi-cultural society" many centuries before these concepts even entered the political lexicon in the West.

12. Even in the Middle Ages, when it was common for Christian states to resort to violence in an attempt to convert Jews and members of other faiths and denominations to what were considered orthodox religious doctrines, all religious communities who were subjects of the Ottoman Sultan remained free from persecution and were never forced to convert to a religion other than their own.

13. Long before the concept of religious tolerance gained acceptance in Europe, the Ottoman State became a safe haven for Jews and other peoples fleeing religious persecution in other European countries.

14. Beginning in the 15th century, Jews who faced pressure and discrimination in various European countries due to their religious beliefs immigrated to the Ottoman Empire and benefitted from the Empire's wide-ranging religious tolerance.

15. The Republic of Turkey has maintained the tradition of religious tolerance which it inherited from its predecessor, the Ottoman Empire. Just as the Ottoman Empire opened its doors to Jews more than 500 years ago, Turkey, despite its limited resources, has welcomed Jews from Nazi Germany as well as hundreds of thousands of refugees looking for a safe haven in the aftermath of regional conflicts, among them Iraqi Kurds, Bosnians, Kosovars and others.

## *III. CONSTITUTIONAL AND LEGAL FRAMEWORK IN THE CONTEXT OF FREEDOM OF RELIGION AND BELIEF*

16. The Turkish Republic is a unitary State which ensures equal individual rights for all its citizens.

17. The Turkish Republic's secular and democratic structure ensures that no discrimination takes place on the basis of religion, language, race, creed, gender or ethnic origin.

18. In Turkey, no limitation is imposed on the individual private exercise by all citizens of public freedoms, including the freedom of religion and belief. Any allegation to the contrary reflects ignorance of the Constitutional order, strong social fabric and cultural traditions of the country.

19. Turkish citizens' fundamental rights in the context of freedom of religion and belief are safeguarded by Article 10 of the Constitution, dealing with equality before the law, which provides that "All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings".

20. According to Article 14 of the Constitution on the prohibition of abuse of fundamental rights and freedoms, "no right established by the Constitution may be exercised in such a way as to threaten the indivisible unity of the State, its territory and nation, (...) by creating discrimination based on language, race, religion or sect or by establishing, through any other means, a system of government based on one or other of these concepts or ideas". Moreover, Article 15 of the Constitution, on suspension of the exercise of fundamental rights and freedoms, even in case of war, mobilization or state of emergency, declares that "no one may be compelled to reveal his or her religion, conscience, thought or opinion, or be accused on account of them".

21. Article 24 of the Constitution, dealing with freedom of religion and conscience, provides that:

"Everyone has the right to freedom of conscience, religious belief and conviction. Acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate the provisions of Article 14.

No one shall be compelled to worship, or to participate in religious ceremonies and rites, to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions.

Education and instruction in religion and ethics shall be conducted under State supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political influence, or for even partially basing the fundamental social, economic, political and legal order of the State on religious tenets".

22. The Turkish Penal Code also contains provisions prohibiting crimes against religious freedom. In this context, Articles 175 to 178 are provided below:

"Article 175. Whoever, with the intention of debasing any religion, prohibits or violates the performance of religious services or ceremonies, shall be punished by imprisonment for six months to 1 year and shall be fined. If this offence is committed by using force, threat or by debasement, the perpetrators shall be punished by imprisonment for 1 to 2 years and shall be fined. Whoever debases God, religions, the prophets or the holy books, or whoever condemns, derides or insults someone for not fulfilling his religious duties shall be imprisoned for six months to 1 year and shall be fined. If the felony in paragraph 3 above is committed via the media, the penalty shall be doubled. In case of the incitement by media to the felony stated in Article 1, the same punishment shall be given.

Article 176. Whoever pulls down or impairs or damages in any way items in places of worship, or uses force against or insults religious officials, with the intention of debasing any religion, shall be punished by imprisonment for 1 to 2 years and shall be fined. When a felony is committed during or in connection with the performance of duty by spiritual officials, the punishment prescribed by law for that felony shall be increased by one sixth.

Article 177. Whoever impairs monuments or similar works in places of worship or engravings in cemeteries, or damages tombs, shall be punished by imprisonment for 1 to 3 years and shall be fined. Whoever defiles any of the above-mentioned objects shall be punished for three months to 1 year and fined.

Article 178. Whoever, with the intent of defamation or any other illegal intent, insults or takes partially or entirely the corpse or bones of a person shall be punished by imprisonment for 1 to 3 years and shall be fined. Whoever, exclusive of the above acts, removes a whole corpse or a part of it, or disinters a dead body or its bones without obtaining official permission, shall be imprisoned for 2 to 6 months and fined. When this crime is committed via officials of a cemetery or graveyard or by persons to whom corpses or bones are delivered, the punishment prescribed by law shall be doubled."

23. Article 312 of the Turkish Penal Code penalises "anyone publicly inciting the population to hatred and enmity based on differences of class, race, religion, belief or region".

## *IV. THE PRINCIPLE OF SECULARISM IN TURKEY*

24. Secularism is not only the distinguishing mark of a modern state, but also a "sine qua non" condition of a democratic and pluralistic political order. As such, it is inseparable from the concept of democracy.

25. True freedom of conscience and political and legal equality of all citizens regardless of their religious beliefs can only be achieved under a secular state. A theocratic democracy is impossible both theoretically and empirically and there has been no example of it in the history of mankind.

26. While not all secular systems may be democratic, all democratic systems, by definition, must be secular. What distinguishes a democracy from a dictatorship is full respect for human rights and fundamental freedoms. Secularism is not a rival or threat to religion, but its firmest guarantee, as secularism, in its essence, entails the impartiality of the State vis-a-vis all religious denominations.

27. A challenge to secularism is also a challenge to the democratic political order and human rights. A democratic state which has the right to protect democracy must also have the right and duty to protect the secular character of the state.

28. The founding fathers of the Turkish Republic put special emphasis on the principle of secularism. The adoption of secularism began in the earliest days of the Republic.

29. Following the War of Independence and the foundation of the Republic of Turkey in 1923, sovereignty was transferred from the Sultan to the people. Consequently, secularism became one of the pillars of the reforms of Atatürk, and one of the most important elements of the founding philosophy of the young Republic.

30. The proclamation of the Republic in 1923 and the abolition of the Caliphate in 1924 were irreversible steps in the path towards establishing a secular state system. Also in 1924, religious schools were closed and all educational institutions were placed under the Ministry of National Education, thereby ensuring unity in education. The Directorate of Religious Affairs was established in the same year.

31. The Constitution of 1924 was amended in 1928 to delete the provision declaring Islam as the state religion. In the 1937 amendment to the Constitution, secularism was formally introduced as one of the basic principles of the Republic.

32. The fundamental purpose underlying all these revolutionary steps was to prevent the exploitation of religion for political purposes. This process was also imperative for the transfer of sovereignty from the divine power of the Sultan and the supreme religious leader, the Sheik-ul-Islam, to the Turkish nation represented by the Parliament. In this sense, secularism constitutes the essence of the Turkish Revolution as embodied in the reforms of Atatürk.

33. The present Constitution of 1982, like its predecessors, has retained the principle of secularism. While it clearly recognizes the freedom of religion, which comprises the freedom of faith and the freedom of worship, it keeps the Directorate of Religious Affairs as part of the administrative apparatus (Article 136).

34. The Constitution (Article 174) also accords special protection to the eight principal reform laws passed during the Atatürk era, which embody the principles of secularism. These are the laws establishing secular education and civil marriage; adopting the Turkish alphabet and the international numerals; introducing the hat; closing the dervish convents; abolishing certain titles, and prohibiting the wearing of certain garments. Under Article 174 of the Constitution, no provision of the Constitution shall be construed in such a way as to render unconstitutional the enumerated reform laws, which safeguard the secular character of the Republic. In other words, such laws cannot be found unconstitutional by the Constitutional Court.

35. Another constitutional provision protecting the secular character of the State is the ban on the use of religion for political purposes. Article 24 prohibits the exploitation of religion or religious feelings for political objectives or personal benefit. It also forbids even partial establishment of the fundamental social, economic, political and legal order of the State upon religious principles.

36. Finally, Article 42 of the Constitution allows for the Government's supervision of religious instruction by stating that no educational institutions shall be established that are incompatible with the principles of contemporary science and education.

37. If one pillar of secularism as applied in Turkey is the separation of religion from governmental affairs, another is the freedom of religion and conscience for all members of society. In this respect, Article 24 of the Constitution is essentially designed to protect the freedom of conscience not only of members of the recognized and established religious communities, but also that of non-believers.

38. In the West, secularism has entailed the complete separation of religion and the State. The evolution of secularism in Turkey, however, has allowed for some measure of State control over religion. It was feared that total non-interference between religion and the State would, in effect, result in the interference of religion in governmental affairs, since Islam is not only a system of faith but also a system of law, as well as a social and political ideology. If religious affairs were left entirely in the hands of communal organizations without any governmental supervision, Islam would inevitably retain its hold over laws, politics and economics.

39. The application of secular principles in societies of different faiths might vary. The form of the boundaries that separate the church and the state in Christian societies is different from that which delineates the domain of the religion and the domain of the State in Turkey. One comes from a dualist history, whereas the other is built on the rubble of a monolithic state structure. Since there is no church-like institution in Turkey, it falls on the State to streamline religious services for its citizens.

40. The Directorate of Religious Affairs, directly affiliated to the Office of the Prime Minister, was established with this consideration in 1924. Its duties and functions primarily include conducting work related to the pretexts, moral principles and ethics system of Islam; enlightening the population about religion; managing places of worship and recruiting religious officials. Salaries of religious officials are paid from the budget of the Directorate.

41. Contrary to allegations towards this end put forward by the Special Rapporteur, it becomes clear that the Directorate of Religious Affairs is not entrusted with the duty of propagating the Sunni/Hanafi version of Islam, but simply with that of providing basic religious services to Muslim citizens. Under Article 136 of the Constitution, the Directorate of Religious Affairs operates "in accordance with the principle of secularism, detached from political views and ideas and making national solidarity and integrity its objective" in the exercise of its duties. Consequently, the Special Rapporteur's allegation in Paragraph 128 of the report that "religious practice appears to be regimented by the government and Islam is treated as if it were a State affair" has no basis in reality.

42. In paragraph 132 of the report, the Special Rapporteur also misrepresents the situation regarding compulsory courses on religion . In fact, these courses, the exact name of which are "Religious Culture and Ethics", do not entail religious indoctrination on the basis of Sunni Islam at all, but merely aim to provide objective information on the major religions of the world and the principles of morality. A cursory examination of Turkish school textbooks will verify this fact. Furthermore, as stated by the Special Rapporteur, members of the non-Muslim communities are exempted from these courses upon their request. In this respect, the Special Rapporteur's claim that some non-Muslims may "decline to seek an exemption for fear of ostracism or public pressure" disregards the tolerant structure of Turkish society.

43. The Special Rapporteur misrepresents the situation in Turkey by pointing to alleged deficiencies in the Turkish legal system. In fact, there are no laws in Turkey which recognize special privileges for any religious community or contain any discriminatory provisions against members of any religious denomination or belief. Turkish laws are based on rationality and the needs of the society. The role of the secular, democratic state, which is equidistant to all religions, is simply to ensure that a conducive environment exists for citizens to practise their religion within the framework defined by law.

44. Consequently, the Special Rapporteur's claims that secularism has become a kind of state religion in Turkey and that the Turkish legal system gives a special priority to the Sunni/Hanafi sect of Islam, as well as the analogy he makes between Atatürk's principles and religion, do not reflect the state of affairs.

45. In one of his recommendations at the end of the report, the Special Rapporteur suggests that "the Government should ensure that Islam does not become a political tool, since that would promote religious extremism". The Special Rapporteur may rest assured that our interpretation of secularism does not leave room for any religion to become a political tool in Turkey.

46. It is universally recognized that the Republic of Turkey has the most succesful experience in reconciling an overwhelmingly Muslim population with a democratic/pluralistic system in accordance with universally accepted values. The Turkish Revolution, which created the modern Republic of Turkey, transformed a theocratic Islamic order into a democratic Republic where sovereignty rests with the people.

47. This comprehensive revolution was achieved only with strict adherence to the principle of secularism. Without a strong secular base, it would have been impossible to create a state based on the rule of law and respect for human rights and fundamental freedoms. In this sense, the protection of the secular character of the State carries a critical importance for the sustainment of Turkey's ongoing progress towards building a more democratic and participatory political and social system in line with universal values and standards.

48. The Special Rapporteur seems to insinuate that secularism is applied too rigidly in Turkey, to the detriment of fundamental freedoms. It is only natural that Turkey should implement its laws to counter the threat posed by those who abuse Islam for political ends. This is imperative for the strengthening of the rational distinction between religion and the State, the achievement of which is among the most notable successes of the Turkish Republic.

## *V. NATIONALISM IN THE TURKISH CONTEXT*

49. The Special Rapporteur's views on Turkish nationalism need to be analysed on the basis of the existing legal framework as well as socio-political realities prevalent in Turkey. For reasons that shall be explained below, the Special Rapporteur's conclusions regarding Turkish nationalism and his allegation that the Turkish State is following an "active policy of Turkization" are unacceptable.

50. All Turkish citizens are free to equally exercise their rights guaranteed by the Constitution and relevant laws. There is no discrimination on the basis of ethnic origin, race, creed, gender, language or religion.

51. Discrimination on these premises is completely alien to Turkish culture and prohibited under applicable laws. Expressions of ethnic identity, such as the use of local languages or dialects, are considered as matters falling in the private domain, and are therefore not the subject of laws to be regulated by the State.

52. Following the War of Independence, the new Republic sought to build a new "Turkish" national identity. However, this principle of nationalism did not carry ethnic connotations. On the contrary, this nationalism embraced all peoples of the former Ottoman Empire who became citizens of the new Turkish

Republic. Specifically, it was designed as an "umbrella concept" vis-a-vis citizenship and it was independent of religion or belief and racial or ethnic origins, while providing legal protection for freedom of religion and belief, including the principle of non-discrimination. In this sense, Turkish nationalism served to unite rather than divide.

53. The young Republic opted for the territorial criterion of nation formation rather than the blood criterion, as well as a "subjective definition" of national identity, which was in any case the only feasible option for the Turkish Republic. The Turkish nation consists of various ethnic groups. "Being a Turk" does not refer to membership in the largest of these ethnic groups, i.e. the Turkish ethnic group, but to an "upper identity" otherwise expressed as "Turkish citizenship". Just as the words "American", "British" or "French" stand for the citizenship of people of different ethnic backgrounds of their respective countries, the word "Turkish" defines the citizenship bond , and not necessarily ethnicity. In fact, the concept of "Turkish citizenship" refers to an all-embracing legal status encompassing all Turkish citizens of various ethnic backgrounds and granting them equal rights and freedoms under the guarantee of the Constitution.

54. In this respect, Article 2 of the Constitution stipulates that the Republic of Turkey is "committed to the nationalism of Atatürk". Taken together with Article 3, which states that the Turkish State is an indivisible whole with its territory and nation, this means that the human element of the State is the Turkish nation. As such, the idea of a nation-state is incompatible with a theocratic state where the human component is a religious community, not a nation.

55. Nationalism is defined in the Preamble of the Constitution, which states that "All Turkish citizens are united in national honour and pride, national joy and grief, their rights and duties towards the national entity, blessings and burdens, and in every manifestation of national life". This is a clear confirmation of the "subjective" view of the nation which presupposes that a nation is based not necessarily on such "objective" shared characteristics as race, ethnicity, religion or language, but on the shared sentiments and commitments of its members, and particularly on their will to live together under a common government.

56. The Constitution also refers to "Atatürk nationalism" to differentiate it from some other versions of nationalism. This implies a rejection of racism, chauvinism and irredentism, which have no room in Turkish nationalism.

57. Under Article 66 of the Constitution, "Turkishness" is not an ethnic or cultural, but a political concept. This article states that "Everyone bound to the

Turkish State through the bond of citizenship is a Turk". Consequently, it will be wrong to allege that Turkish nationalism, which has no ethnic roots and which is only an expression of citizenship, causes setbacks in the full respect for religious freedom.

58. It is disappointing that the Special Rapporteur gives credence to attempts to analyse the texture of Turkish society in mere percentages ("Alawi and other Shiite communities account for at least 20 percent of the Muslim population"). It is true that the Hanafi conception of Islam has a wider following in Turkey. However, the Turkish State does not base itself on any sect. Neither does it suppress the religious freedom of the "minority" or the "majority". It is a secular one.

59. Racial, ethnic or religious discrimination encountered in some societies is out of the question when Turkey is considered. The racial, ethnic or religious origin of our citizens has not been a relevant factor in Turkey. Geography and history have endowed us with a rich culture, as well as ethnicity. The multicultural fabric of Ottoman society has ensured that race is not perceived as a social or political dividing line in the collective consciousness of the Turkish people. This legacy of non-discrimination, deeply embedded in the Turkish psyche, forms the foundation of contemporary Turkish politics.

60. Therefore, Paragraph 135 of the Special Rapporteur's report, which claims that "the Turkish constitution elevates the nationalism of Atatürk to a new religion" is offensive and unacceptable. Circles which interpret Atatürk's principles as "petrified doctrines" or which claim that they are elevated to a new religion are usually extremists. Hence, the Turkish Government sincerely regrets the use of analogous terminology in the report.

61. As amply demonstrated above, the founding principles of the Turkish Republic do not represent a cult or a religion. To the contrary, they are embedded in rationalism and universal values. They form the basis of a very comprehensive reform process which resulted in the creation of modern Turkey, where people are able to fully enjoy freedom of religion, belief and worship without interference from the State. To claim, as the Special Rapporteur does, that Turkish nationalism aims at the "Turkization" of non-Turkish ethnic and religious communities, which have always maintained their local cultures and languages, is a distortion of reality. The mention in Paragraph 158 of the report of "stereotyped imperatives of the Turkization policy (i.e. to be Turkish by ethnic origin and to be a Muslim by religion)" reflects a prejudiced mentality. When one considers the wide diversity of Turkish society and the natural tolerance, forged through centuries, accorded by the Turkish people to all local cultural identities, this terminology is irrelevant in the context of Turkey.

## *VI. RELIGIOUS MINORITIES*

62. As a general principle, the Turkish legal system does not encompass the concept of "minority". The non-Muslim minorities recognized by the Lausanne Peace Treaty of 1923, which is in essence the founding document of the Turkish Republic, constitute the only exception to this rule.

63. The fundamental principle adopted in respect of the rights of minorities in the drafting of the Treaty of Lausanne was to provide guarantees for the rights of non-Muslim communities in a country with a Muslim majority.

64. In this context, Non-Muslim minorities in Turkey, namely the Armenian, Jewish and Greek Orthodox communities, enjoy the exclusive guarantees which have been provided to them by Articles 37-45 of the section entitled "Protection of Minorities" of the Treaty of Lausanne.

65. According to the Lausanne Peace Treaty :

"Turkey undertakes that the stipulations contained in Articles 38 to 44 shall be recognized as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or offical action prevail over them" (Article 37).

"Turkish nationals belonging to non-Muslim minorities will enjoy the same civil and political rights as Muslims" and "All the inhabitants of Turkey, without distinction of religion, shall be equal before the law" (Article 39).

"Turkish nationals belonging to non-Muslim minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage and control, at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein" (Article 40).

"As regards public instruction, the Turkish Government will grant in those towns and districts, where a considerable proportion of non-Moslem nationals are resident, adequate facilities for ensuring that in primary schools, instruction shall be given to the children of such Turkish nationals through the medium of their own language. In towns and districts where there is a considerable proportion of Turkish nationals belonging to non-Muslim minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may provided out of public funds under the State, municipal or other budgets for educational, religious, or charitable purposes" (Article 41).

66. Article 40 of the Law on Private Education Institutions states that "They (minorities) shall have equal rights in the establishment, administration and supervision of all kinds of charitable establishments, religious and social institutions, all types of schools and similar education and training institutions, provided that the expenses are covered by them and they will be free to use their own languages and execute their religious ceremonies".

67. Article 41 of the said Law states that "In general (public) education, appropriate circumstances shall be provided by the Turkish Government for the provision of education for the children of these Turkish citizens in their primary schools and in their mother languages in the provinces where non-Muslim citizens reside. This provision shall not obstruct the compulsory teaching of the Turkish language in the concerned schools by the Turkish Government".

68. In practice, with the exception of courses of Turkish language, education in private minority schools established by non-Muslim minorities is given to Turkish nationals belonging to the said minorities in their own language; this includes religious education. Students belonging to non-Muslim minorities may also, if they so desire, attend any other public or private school not run by their respective minorities, without any restriction.

69. Apart from the Treaty of Lausanne, the rights of Turkish citizens belonging to religious minorities are also under the guarantee of the Constitution. In accordance with Articles 10 and 24 of the Constitution, non-Muslim Turkish nationals who have been recognized as religious minorities are treated equally before the law and enjoy the identical rights and freedoms as all other Turkish citizens, including the right to elect and to be elected to office.

70. The Armenian minority in Turkey enjoys full freedom of worship; besides the Armenian Patriarchate in Istanbul, the Armenian minority has a total of 51 churches, 35 of which are open for worship. Over 4.000 students receive education in the Armenian language in 44 schools. The minority operates 17 cultural and charitable associations, 2 newspapers, 6 magazines and 5 hospitals in Istanbul.

71. The Jewish minority has 18 synagogues in Istanbul and 24 places of worship in other provinces. Approximately 700 students attend 4 Jewish private minority schools. The minority also has 8 associations and 3 hospitals, as well as 1 newspaper.

72. The whole of the Greek Orthodox minority resides in Istanbul. Turkish citizens of Greek origin in Istanbul enjoy all the facilities and opportunities provided by a vibrant, cosmopolitan city. The Greek Orthodox minority enjoys freedom of worship in 73 churches of Greek Orthodox faith open for worship in Istanbul. The minority possesses 6 high schools, 5 junior high schools and 17 primary schools for a total of 297 students. The minority also runs about 65 foundations and associations, as well as 2 newspapers. The large majority of the members of the Greek Orthodox minority who left Istanbul in the past and settled in Greece, mainly due to socio-economic reasons, have preserved their Turkish citizenship. Consequently, there is no legal or administrative obstacle of any kind to their returning or travelling to Turkey whenever they wish.

73. In view of the foregoing, the Turkish Government finds it difficult to understand the motives behind the recommendations made by the Special Rapporteur regarding the Treaty of Lausanne. Its provisions are observed by the Turkish authorities in practice. It is out of the question for the Turkish authorities to interfere in the freedom of worship, religion, association and education of Turkish citizens belonging to non-Muslim minorities. Practical difficulties of an individual nature which come up occasionally involving, for instance, obtaining permission for repair or renovation of places of worship are easily resolved through dialogue between local officials and the representatives of the minorities.

74. Contrary to the suggestion put forward by the Special Rapporteur in Paragraph 141 of the report, the Government of Turkey is of the opinion that there is no need for any decision by any working group on the "interpretation that should be given to the notion of minorities in the context of the Treaty of Lausanne". From our point of view, the notion of minorities in the Treaty of Lausanne is abundantly clear. Turkey fully complies with all its obligations stemming from the Treaty in domestic law and national practice. Tolerance and respect for different faiths is one of the characteristics of Turkish society inherited from our past. The remarks made by the representatives of the minority communities interviewed by the Special Rapporteur to the effect that they enjoy full freedom of religion and worship prove that this heritage is preserved in Turkey.

## *VII. CONCLUDING REMARKS*

75. The report prepared by the Special Rapporteur on his visit to Turkey falls far short of the standards of objectivity and accuracy. The Government of Turkey seriously disputes the conclusions of the Special Rapporteur contained in Section V of his report, in particular his allegations with regard to the interpretation in Turkey of the principles of secularism and nationalism, and sincerely regrets that despite the extensive cooperation provided by the Turkish authorities before, during and after the visit, the Special Rapporteur chose to distort the situation in Turkey. Furthermore, the Turkish Government is of the firm opinion that the "recommendations" put forward by the Special Rapporteur in Paragraphs 160-166 of the report are out of place in the context of Turkey; the Turkish authorities take utmost care to implement the principles and measures contained in the said Paragraphs in daily practice.

76. Nevertheless, the Government of Turkey remains fully committed to constructive cooperation and dialogue with the Office of the High Commissioner for Human Rights and the Special Rapporteur. In the same spirit, the Turkish Government expects the Special Rapporteur to take into account the above facts while implementing his mandate in the future with regard to Turkey.

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Item 9 of the provisional agenda

# QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

## Note verbale dated 3 July 2001 from the Permanent Mission of Iraq to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights

The Permanent Mission of the Republic of Iraq to the United Nations Office and other international organizations in Geneva presents its compliments to the High Commissioner for Human Rights and has the honour to enclose herewith a note by the Government of the Republic of Iraq to the High Commissioner concerning the recent air aggression perpetrated by the United States and Britain against Iraq. In the morning of 19 June 2001, the aggressors bombarded a football stadium in Talaafar in the northern part of Iraq, which led to the death of 23 young people and tens of injuries.

In its note, the Government of the Republic of Iraq wishes that the High Commissioner for Human Rights condemn this reprehensive crime and calls upon the United States and Britain to put an end to their serial aggressions against the Iraqi people in the north and south of Iraq with the excuse that they are protecting the no-fly zones. These no-fly zones are illegal and illigitimate. Those responsible for the crime of Talafaar should be convicted in international courts and handed down the right punishment for committing war crimes against innocent children.

The Permanent Mission of the Republic of Iraq would appreciate it if the aforementioned note* could be issued as a document of the fifty-eighth session of the Commission on Human Rights.

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* Reproduced as received, in Arabic and English only.

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## Annex

### Note from the Government of the Republic of Iraq addressed to Mrs. Mary Robinson, the High Commissioner for Human Rights

On 19 June 2001, United States and British aircraft launched a criminal attack on a football stadium in the Talaafar area of northern Iraq as a result of which 23 children and young men at that stadium were killed and dozens wounded.

For more than 10 years, the children of Iraq have been subjected to deliberate programmed murder and intimidation, initially through the devastating war orchestrated by the United States of America and the United Kingdom which targeted their lives and their future and exposed them to conditions of violence, deprivation and loss of life, and subsequently through the comprehensive embargo, which deprived them of their right to life, health, education and a secure childhood, and the ongoing aerial bombardments of civilian institutions in which civilians are killed at random. All this reconfirms the heinous nature of the crimes which those two States have persistently committed in flagrant violation of the principles of international law and the provisions of the Universal Declaration of Human Rights, the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War and the obligations embodied in the Optional Protocols of 1977, the Convention on the Rights of the Child of 1989 and the Optional Protocol thereto of 25 May 2000. Moreover, the acts of aggression which those two States are committing against the children of Iraq run counter to the endeavours that the Secretary-General of the United Nations, the General Assembly and the Security Council are making to protect children and ensure a better world for them through the holding of the Special Session of the General Assembly on Children in September 2001. These acts of aggression also run counter to the reports of the Secretary-General of the United Nations to the Security Council on the effect of armed conflicts on children, in which he has emphasized the need to accord the highest priority to child victims of wars.

The ongoing United States-British military aggression against the people of Iraq, and particularly its children, illustrates the moral vacuity of those two States and their contempt for the fundamental rules of international humanitarian law. Accordingly, immediate action is required to put an end to those crimes that are being committed before the eyes of the international community, which is standing helpless in the face of this tragedy, being hesitant to adopt a fair and equitable position for fear of angering two dominant States which are imposing their policy on the other States of the world in total disregard of international law and the principles of human rights.

In the light of this massacre of innocent children by the United States of America and the United Kingdom, the Government of the Republic of Iraq trusts that the High Commissioner for Human Rights will condemn that odious crime and call upon the United States Administration and the British Government to refrain from the commission of further crimes against the Iraqi people in the northern and southern regions of Iraq on the pretext of protecting the illegitimate and illegal air exclusion zones and to refer the persons responsible for that odious crime to international tribunals so that just retribution can be imposed on them for that war crime involving the deliberate murder of innocent children.

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# QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

## Note verbale dated 5 July 2001 from the Permanent Mission of Iraq to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights

The Permanent Mission of the Republic of Iraq to the United Nations Office and other International Organizations in Geneva presents its compliments to the High Commissioner for Human Rights and has the honour to enclose a copy of the two articles published by *The International Herald Tribune* on 30 April 2001 concerning the war crimes Senator Bob Kerry committed in Viet Nam during his service as an officer of the Special Forces in the United States Marines. He ordered his military unit to kill children and women in Vietnamese villages.

In addition, the *New York Times* published in its extended issue of Sunday 29 April 2001, in cooperation with the television programme "60 Minutes", an article about the details of the massacre perpetrated through orders issued by Bob Kerry to his military unit.

The Permanent Mission of the Republic of Iraq would be grateful if the aforementioned articles* could be used as documents of the fifty-eighth session of the Commission on Human Rights under item 9 of the provisional agenda.

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* Available for consultation in the files of the secretariat.

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# QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

## Letter dated 16 July 2001 from the Permanent Observer for Palestine to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights

I am enclosing herewith an executive summary on the Israeli breaches of the ceasefire for the period from 13 June 2001 to 13 July 2001, including acts of deliberate killing which do not spare even children, assassinations, inflicting injury, uprooting and burning trees, levelling land, demolishing houses, plans for expanding settlements in the West Bank and the Gaza Strip, confiscation of lands to establish new settlements, invasions by the Israeli troops of the Palestinian territories under the Palestinian National Authority, in addition to practices of the Israeli settlers, under the protection of the Israeli troops, such as opening fire on Palestinians and burning and destroying Palestinian properties.

The breaches of the ceasefire referred to also constitute violations of the principles of international law, the Universal Declaration of Human Rights and the two International Covenants on Human Rights. Equally, they constitute flagrant violations under international humanitarian law and the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and the First Additional Protocol.

I would be grateful if you would have this letter as well as its enclosure* distributed as an official document of the fifty-eighth session of the Commission on Human Rights under item 8 of the provisional agenda.

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* Reproduced as received, in the language of submission only.

Annex

PALESTINE LIBERATION ORGANIZATION
Palestinian National Authority
Office of the President-Information

منظمة التحرير الفلسطينية
السلطة الوطنية الفلسطينية
مكتب الرئيس -المعلومات

# Executive Summary
## Israeli cease-fire breaches
## From [13/6/2001] to [13/7/2001]

**The total number of martyrs is [33], including [7] children, and the wounded are [1073], [85] of which are in critical conditions, among them [32] children in critical conditions and [342] of the wounded are children. The total number of arrests is [675]. Uprooted and burnt trees are totaled at [29401] trees. Land bulldozing [1273] Dunums, buildings that sustained damages [473] buildings, vehicles that sustained damages [377] vehicles. Economic establishments' damages are totaled at [194], erection of [8] Settlement points and added housing units planned to be built in the West Bank & Gaza Strip are [2714]. The area of confiscated lands planne to be annexed to the settlements [2235] Dunums. [8] bypass roads have been built and the Israeli army built [38] new permanent military posts. The Israeli army entered area "A" [78] times and bombarded area "A" with shells [92] times and breached the cease-fire [329] times with machinegun fire that caused damages and losses, in addition to a lot of gunfire cases. In addition to the army and settlers behaviors that are contained in the report are also a breach of the cease-fire.**

**Attachments:**

1. **Table of human and material losses**
2. **Martyrs List**
3. **Geographical distribution of the wounded.**

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Attchment no 2

## A list of Palestinians killed from 13\6\2001 to 13/7\2001

| N. | Name | Age | City | Area | Note |
|---|---|---|---|---|---|
| | | | Wednesday:13\6\2001 | | |
| 1 | Nasim Nasser Mohamed Ayo | 20 | north of Gaza | Gaza Strip | live bullet in the head |
| 2 | Awni Abedelraouf Ali Hadad | 42 | Hebron | West Bank | Live bullet in the head\Jewish settlers |
| | | | Thursday:14\6\2001 | | |
| 3 | Hassan Saed Abo Sinera | 32 | Bethlehem | West Bank | Several bullets |
| | | | Sunday:17\6\2001 | | |
| 4 | Ali Morad Abo Shawesh | 12 | khan younis | Gaza Strip | Live bullet in the heart |
| 5 | mohamed abdelrahman elkurdi | 18 | Rafah | Gaza Strip | live bullet in the chest |
| | | | Monday:18\6\2001 | | |
| 6 | Adel Hussein Adel Al Mogranen | 16 | khan younis | Gaza Strip | Live bullet in the chest |
| 7 | Ahmad Mahmod Ali | 71 | Qalqilya | West Bank | Run over by jewish settlers |
| | | | Tuesday:19\6\2001 | | |
| 8 | Fatma Ekan Abo Khoreis | 70 | Qalqilya | West Bank | Run over by jewish settlers |
| | | | wednesday:20\6\2001 | | |
| 9 | Jamal Odeh Ahmad Nafi | 30 | Ramallah | West Bank | Two live bullets in the chest & abdomen |
| | | | Saturday:23\6\2001 | | |
| 10 | Mohanad Jamal Sabri Srelan | 22 | Mid Region | Gaza Strip | Several bullets |
| | | | sunday:24\6\2001 | | |
| 11 | Mohamed Waleed Hamdan | 24 | khan younis | Gaza Strip | Live bullet in the abdomen\Previously wounded |
| 12 | Osama Fathi Jwabra | 29 | Nablus | West Bank | Assassination\Explosion in public phone booth |
| | | | Tuesday:26\6\2001 | | |
| 13 | Mahmod Mustafa Mteir | 17 | Ramallah | West Bank | live bullet in the head |
| | | | Saturday:30\6\2001 | | |
| 14 | Fatima Elshorafi | 63 | Shamal Gaza | Gaza Strip | she was held two days in the open at the border crossing |
| | | | Sunday:1\7\2001 | | |
| 15 | Mahmod Mossa Halajeh | 33 | Jenin | West Bank | Several live bullets |
| 16 | Jamal Defalah Taljes | 32 | Jenin | West Bank | Several live bullets |
| 17 | Ahmad Mohamed Yaseen | 15 | Gaza | Gaza Strip | Live bullet in the neck |
| 18 | Samah Nori Abohanish | 23 | Nablus | West Bank | A helicopter bombarded their vehicle with 8 missiles (assassination) |
| 19 | Mohamed Ahmad Basharat | 25 | Jenin | West Bank | |
| 20 | Waleed Rabhi Basharat | 18 | Jenin | West Bank | |
| | | | Monday:2/7\2001 | | |
| 21 | Maryam El Tamimi | 55 | Ramallah | West Bank | Suffered heart attack\Prevented from reaching the hospital |

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| | | | | | |
|---|---|---|---|---|---|
| | | | Tuesday:3/7/2001 | | |
| 22 | Rdwan Ebrahim | 37 | Nablus | West Bank | several bullets in the chest and neck |
| 23 | Jamila Salim Abo Shahab | 39 | Qalqilya | West Bank | chased down by the occupation forces |
| | | | Wednesday:4/7/2001 | | |
| 24 | Morad Jamil El Masri | 14 | khan younis | Gaza Strip | live bullet in the head |
| | | | Thursday:5/7/2001 | | |
| 25 | Nasser Latif | 37 | Ramallah | West Bank | Live bullet in the chest |
| | | | Saturday:7/7/2001 | | |
| 26 | Kalil Ebrahim Al Magrabi | 11 | Rafah | Gaza Strip | live bullet in the head |
| | | | Sunday:8/7/2001 | | |
| 27 | Sabrnas Abdullah Al Satary | 28 | khan younis | Gaza Strip | Murdered by Jewish settlers inside the Green Line |
| | | | Monday:9/7/2001 | | |
| 28 | Salah Abd Elrahman Salah | 50 | Nablus | West Bank | Suffered heart attack\Prevented from reaching the hospital |
| | | | Tuesday:10/7/2001 | | |
| 29 | Mohamed Kalifa | 49 | Jenin | West Bank | Suffered heart attack\Prevented from reaching the hospital |
| | | | Wednesday:11/7/2001 | | |
| 30 | Rasmia Goda Jabareen | 40 | Hebron | West Bank | live bullet in the head |
| | | | Thursday:12/7/2001 | | |
| 31 | Mohamed Arfa Abo Fayaz | 21 | Gaza | Gaza Strip | Israeli bombardment |
| | | | Friday: 13/7/2001 | | |
| 32 | Atef Mohammed Tafish | 30 | Jabalia | Gaza Strip | live bullet |
| 33 | Fwaz Bashir Bdran | 26 | Tolkarem | West Bank | Car Explosion/liquidation |

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## Attachment No. 3

A list of wounded Palestinians from 13-6-2001 to 13-7-2001

| Date | Ramallah-Birah | Nablus | Jenin | Jerusalem | Qalqilya | Bethlehem | Tolkarem | Salfeet | Gaza | Khan Younis | Rafah | Mid Region | North Of Gaza | Hebron | Jericho | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 13/06 | 9 | 3 | 0 | 4 | 0 | 0 | 3 | 0 | 0 | 3 | 5 | 0 | 0 | 4 | 0 | 31 |
| 14/06 | 2 | 1 | 2 | 0 | 0 | 0 | 2 | 0 | 3 | 9 | 0 | 0 | 0 | 10 | 4 | 33 |
| 15/06 | 20 | 0 | 2 | 0 | 0 | 5 | 5 | 0 | 4 | 6 | 0 | 0 | 0 | 3 | 0 | 46 |
| 16/06 | 3 | 2 | 2 | 0 | 0 | 6 | 2 | 0 | 2 | 9 | 11 | 0 | 0 | 12 | 0 | 49 |
| 17/06 | 3 | 4 | 1 | 2 | 0 | 0 | 2 | 0 | 0 | 7 | 3 | 0 | 0 | 5 | 0 | 27 |
| 18/06 | 0 | 5 | 0 | 0 | 0 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 6 | 0 | 14 |
| 19/06 | 2 | 0 | 0 | 2 | 3 | 0 | 3 | 0 | 0 | 7 | 2 | 0 | 0 | 1 | 0 | 20 |
| 20/06 | 7 | 4 | 3 | 0 | 0 | 0 | 4 | 0 | 1 | 8 | 2 | 0 | 0 | 6 | 0 | 35 |
| 21/06 | 1 | 4 | 0 | 0 | 0 | 1 | 0 | 0 | 3 | 4 | 0 | 0 | 0 | 2 | 0 | 15 |
| 22/06 | 5 | 1 | 1 | 2 | 0 | 2 | 1 | 0 | 1 | 2 | 0 | 0 | 3 | 2 | 0 | 20 |
| 23/06 | 5 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 3 | 0 | 13 |
| 24/06 | 1 | 8 | 0 | 1 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 16 |
| 25/06 | 1 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 3 | 0 | 0 | 0 | 12 | 0 | 19 |
| 26/06 | 1 | 3 | 1 | 0 | 0 | 0 | 2 | 3 | 0 | 3 | 0 | 0 | 0 | 7 | 0 | 20 |
| 27/06 | 3 | 9 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 3 | 0 | 17 |
| 28/06 | 3 | 2 | 1 | 1 | 0 | 0 | 2 | 0 | 2 | 3 | 3 | 0 | 2 | 15 | 0 | 34 |
| 29/06 | 27 | 0 | 4 | 0 | 0 | 4 | 16 | 0 | 1 | 5 | 0 | 0 | 0 | 9 | 0 | 66 |
| 30/06 | 1 | 2 | 0 | 5 | 0 | 0 | 2 | 0 | 1 | 0 | 2 | 0 | 0 | 9 | 0 | 22 |
| 01/07 | 3 | 2 | 9 | 2 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 27 |
| 02/07 | 2 | 4 | 2 | 0 | 0 | 1 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 13 | 0 | 26 |
| 03/07 | 2 | 4 | 1 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 2 | 0 | 0 | 12 | 0 | 24 |
| 04/07 | 4 | 3 | 0 | 0 | 0 | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 12 | 0 | 23 |
| 05/07 | 7 | 8 | 0 | 0 | 0 | 2 | 1 | 1 | 0 | 2 | 7 | 0 | 0 | 3 | 1 | 32 |
| 06/06 | 13 | 5 | 2 | 0 | 3 | 3 | 0 | 0 | 8 | 2 | 1 | 0 | 0 | 9 | 0 | 43 |
| 07/06 | 4 | 8 | 1 | 0 | 3 | 2 | 1 | 0 | 0 | 2 | 3 | 0 | 0 | 26 | 0 | 47 |
| 08/06 | 29 | 2 | 1 | 0 | 4 | 0 | 1 | 0 | 0 | 2 | 1 | 0 | 0 | 11 | 0 | 51 |
| 09/06 | 7 | 5 | 1 | 15 | 0 | 2 | 6 | 0 | 0 | 2 | 7 | 1 | 1 | 20 | 0 | 67 |
| 10/06 | 5 | 4 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 3 | 9 | 0 | 0 | 11 | 0 | 34 |
| 11/06 | 2 | 3 | 1 | 2 | 0 | 2 | 0 | 0 | 0 | 2 | 3 | 0 | 2 | 4 | 0 | 21 |
| 12/06 | 3 | 15 | 1 | 2 | 0 | 3 | 1 | 0 | 2 | 2 | 3 | 0 | 1 | 37 | 0 | 70 |
| 13/07 | 6 | 3 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 2 | 0 | 0 | 96 | 0 | 111 |
| Total | 181 | 117 | 39 | 39 | 8 | 36 | 69 | 6 | 32 | 88 | 68 | 2 | 9 | 374 | 5 | 1073 |

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مكتب الرئيس -المعلومات

- The occupation forces opened heavy machinegun fire at Farsh AL Hawa and Habayel AL Reyah\Hebron.
- The occupation forces fired four artillery shells at AL Hawooz area\Hebron.
- The occupation forces opened heavy and indiscriminate machinegun fire at residential houses in UM AL Safa area\Ramallah.
- The occupation forces stationed in Kharsina Jewish settlement opened heavy machinegun fire at several neighborhoods in Hebron wounding three Force 17 members.
- The occupation forces bombarded with high caliber machinegun fire Farsh AL Hawa, Ras AL Jorz, AL Sair area and Force 17 positions\Hebron.
- The occupation forces opened fire at two Palestinian positions to the north of the Gaza Strip.
- The occupation forces heavily opened high caliber machinegun fire at AL Jesser & AL Sheikh neighborhood in Nimra area. They also opened fire from Habayel AL Reyyah at AL Sair area and Beit AL Mahjar.
- The occupation forces opened machinegun fire at residential houses in AL Almanya Al Sharqy neighborhood\Jenin.
- The occupation forces bombarded AL Amal & Al Nawras TV stations causing heavy damages\Hebron.
- The occupation forces bombarded with high caliber machinegun fire residential houses in Tolkarem damaging several houses and electric power transformer.

3. Destruction of properties, Leveling of Lands and uprooting of Trees:

- The occupation forces bulldozed the road that connects Dair Sweedan and AL Nabi Saleh villages\Ramallah. They prevented Palestinians from using the road.
- During its bombardment and storming in Hebron the occupation forces destroyed five Force 17 positions, a police checkpoint, three electric power transformers, ten high tension electrical networks & several houses and factories.
- The occupation forces detonated a large bomb inside Dr. Zedan Fathi Mansour's house in Kufor Qaleel destroying large parts of it.
- The occupation forces bulldozed 350 meters at the southeast side of Netzarim gate destroying tens of Vineyard and fig trees.

4. Incursions into area "A" and arrests:

- The occupation battle tanks and military personnel carriers stormed in & entered hundreds of meters inside AL Sheikh neighborhood, and entered about one kilometer inside Nimra area, which is under the Palestinian control. They also stormed in AL Sheikh Ali AL Bakka' and Be'r AL Mahjar neighborhoods, which are inside area "H1". They shelled Palestinian residential houses damaging several of them, in addition to the damage of more than a hundred vehicles.
- An occupation military contingent stormed in Dair Istal village, broke in several residential houses, occupied Omz' Abedfattah's house and erected a watchtower on its rooftop.
- The occupation forces stormed in Wadi AL Shajneh area to the south of Durra\Hebron. They forced Palestinians out of their homes and broke into their houses.

PALESTINE LIBERATION ORGANIZATION
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مكتب الرئيس - المعلومات

- The occupation forces deployed infantry contingent on the hill close to Ministry of Finance – Sateh Marhaba\Ramallah.
- The occupation forces stormed in Wadi Al Shajneh and arrested the brothers Mohammed and Azzam Ahmad Abu Arqoub\Hebron.
- The occupation arrested 24-year-old Rani Zakhria Qimsia from Beit Sahour on Al Karama crossing.
- The occupation forces arrested Sayel Tayseer Jaradat & Naseem Younis Tardeh after storming in their houses in Sa'er village\Hebron.
- A reconnaissance Israeli plane flew over Betonia\Ramallah.

## 5. State of the Roads and border crossings:

- The occupation forces imposed a curfew on Um AL Safa village\Ramallah and other parts of Hebron.
- The occupation forces closed down the road leading to Dogeet settlement\Beit Lahia and prevented Palestinian residents and farmers from reaching the area.
- The occupation forces closed down Um AL Safa-Dair AL Sudan road with sand barriers and rocks.
- The occupation forces tightened their military blockade imposed on all Palestinian areas and closed all major, minor and byway roads.

## 6. Settlements and settlers' aggressions:

- Jewish settlers opened fire at Palestinian residential houses in Jabal Johar and burnt several Palestinian vehicles near Kiryat Arba Jewish settlement.
- Kiryat Arba Jewish settlers burnt down 8 Palestinian houses and savagely attacked and beat up several Palestinians in AL Kassara area.
- An armed mob of Jewish settlers smashed several Palestinian vehicles on Yatta road\Hebron.
- Jewish settlers started to uproot trees neighboring Kiryat Arba Jewish settlement\Hebron.
- Under the protection & the participation of the Israeli army, armed mobs of Jewish settlers stormed in Um AL Safa village\Ramallah and ransacked, demolished and destroyed Palestinian properties causing heavy damage & losses.
- An armed gang of Jewish settlers set to fire several Palestinian vehicles and lands in the area between Kharsina and Kiryat Arba Jewish settlements. They also burnt down two houses near the border police station & stormed in AL Kassara area burning houses and savagely attacked & beat up innocent residents.
- Hundreds of armed Jewish settlers closed down the road between Hebron, Bethlehem and Jerusalem. They attacked & destroyed several Palestinian vehicles.
- Jewish settlers set to fire a Palestinian agricultural field in Kiryat Arba area\Hebron burning 13 trees.
- Jewish settlers in Beit Announ area launched barbaric attacks at Palestinians & their properties they smashed several vehicles and uprooted fruitful trees.
- A Jewish settler deliberately run over 14-year-old child Mohammed Omar Aref from Habla village on the southern bypass road; the child was transferred to a hospital inside the Green Line due to his critical condition.

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